

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

STEAMFITTERS LOCAL UNION NO. 420	:	CIVIL ACTION
WELFARE FUND, et al.	:	
	:	
Plaintiffs	:	
v.	:	
	:	
UNITED MECHANICAL CONTRACTORS, INC.	:	
	:	
Defendant	:	NO. 02-2777

**MOTION FOR JUDGMENT BY DEFAULT BY THE COURT  
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 55(b)(2)  
AGAINST DEFENDANT UNITED MECHANICAL CONTRACTORS, INC.**

Plaintiffs, Steamfitters Local Union No. 420 Welfare Fund, Steamfitters Local Union No. 420 Pension Fund, Steamfitters Local Union No. 420 Supplemental Retirement Fund, Steamfitters Local Union No. 420 Vacation Fund, Steamfitters Local Union No. 420 Apprenticeship Training Fund, Scholarship Fund of Steamfitters Local Union No. 420, Local Union No. 420 Piping Industry Political and Education Fund, Mechanical Contractors Association of Eastern Pennsylvania, Inc. Industry Fund (respectively "Welfare Fund," "Pension Fund," "Annuity Fund," "Vacation Fund," "Apprenticeship Fund," "Scholarship Fund," "PIPE Fund," and "Industry Fund" and jointly "Funds"), Local Union No. 420 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada ("Union"), Joseph Rafferty and Jack H. James ("Rafferty," "James" and together with Funds and Union, "Plaintiffs"), by their legal counsel, respectfully move this Court, pursuant to Fed. R. Civ. Pro. 55(b)(2) to enter judgment in favor of Plaintiffs and against Defendant, United Mechanical Contractors, Inc. ("Company" or "Defendant"), for unpaid contributions, contractual liquidated damages, interest and attorneys' fees and costs due and owing to Plaintiffs by Defendant pursuant to 29 U.S.C. §§185(a) and 1132(g)(2)(A)-(D).

In support of this Motion, Plaintiffs rely upon the allegations in the Complaint, the Declaration of Amount Due and the Declaration of Sanford G. Rosenthal.

The grounds for this Motion are as follows:

1. Prior to the commencement of this action, Plaintiffs attempted to resolve this delinquency in an amicable manner.
2. The requested payments were not received and on or about May 9, 2002 the Complaint in this matter was filed. The Complaint was served on Company on May 22, 2002, as appears from the Return of Service that has been filed with the Court.
3. No Answer to the Complaint was filed and on or about July 22, 2002, Plaintiffs filed a Request to Clerk to Enter a Default pursuant to Fed.R.Civ. Pro 55(a) and mailed a copy, first class mail, postage prepaid, to the Company.
4. The Company is neither an infant nor an incompetent person.

**WHEREFORE**, Plaintiffs seek the following relief:

- (a) Judgment entered as set out in the proposed Order and Judgment attached to this Motion.

Respectfully submitted,

JENNINGS SIGMOND, P.C.

BY: s/Sanford G. Rosenthal  
SANFORD G. ROSENTHAL (ID NO. 38991)  
The Penn Mutual Towers, 16<sup>th</sup> Floor  
510 Walnut Street  
Philadelphia, PA 19106-3683  
(215) 351-0611  
Attorneys for Plaintiffs

Date: September 6, 2002

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

STEAMFITTERS LOCAL UNION NO. 420	:	CIVIL ACTION
WELFARE FUND, et al.	:	
	:	
Plaintiffs	:	
	:	
v.	:	
	:	
UNITED MECHANICAL CONTRACTORS, INC.	:	
	:	
Defendant	:	NO. 02-2777

**DECLARATION OF AMOUNT DUE UPON  
APPLICATION FOR DEFAULT**

SANFORD G. ROSENTHAL, Esquire, being duly sworn according to law, deposes and says that he is an attorney for Plaintiffs in the above-entitled action; that he has read the Complaint filed in this action and knows the contents thereof, and the same is true and that as of September 9, 2002 there is due by Defendant United Mechanical Contractors, Inc. to Plaintiffs the sum of \$25,896.06, representing the unpaid balance on a September 7, 1999 settlement<sup>1</sup>, plus post-settlement amounts totaling \$8,489.61 and detailed as follows:

Amounts due from Post-Settlement Default

(1)	Contributions	\$3,022.73
(2)	Liquidated damages <sup>2</sup>	\$2,502.51
(3)	Interest (to 9/9/02)	\$158.70
(4)	Attorneys' fees and costs (to 9/9/02)	\$2,805.67

The grand total due from Defendant is \$34,385.67.

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<sup>1</sup> A copy of the settlement and summary of amounts is attached as Exhibit 1.

<sup>2</sup> The liquidated damages amount includes liquidated damages owed on contributions previously paid but paid after the due date.

Defendant is in default for failure to appear in this action, and Defendant is not an infant or incompetent person and not in the military service, as appears in the attached Declaration.

I declare under penalty of perjury in accordance with 28 U.S.C. §1746 that the foregoing is true and correct to the best of my knowledge, information and belief

Executed on: September 6, 2002

s/Sanford G. Rosenthal  
SANFORD G. ROSENTHAL, ESQUIRE

**IN THE UNITED STATES DISTRICT COURT  
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Plaintiffs	:	
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UNITED MECHANICAL CONTRACTORS, INC.	:	
	:	
Defendant	:	NO. 02-2777

**DECLARATION OF SANFORD G. ROSENTHAL**

SANFORD G. ROSENTHAL, Esquire, being duly sworn according to law, deposes and says that he is the attorney for the Plaintiffs in this matter; that he is authorized to make this Declaration on their behalf; and that Defendant owes to Plaintiffs contributions, liquidated damages and interest of \$29,580 as of September 9, 2002. The Plaintiffs also have incurred attorneys' fees and costs of \$4,805.67 through September 9, 2002 (including \$2,000 under the settlement (See Exhibit 1) and \$2,805.67 post settlement (See Exhibit 2)) in connection with collection of amounts due and owing to Plaintiffs by Defendant. The attorney's fees represent a fair and reasonable charge for the service of declarant's law firm in connection with the collection of the unpaid contributions in this matter and are customarily charged to other clients of the law firm in similar cases.

I declare under penalty of perjury in accordance with 28 U.S.C. §1746 that the foregoing is true and correct to the best of my knowledge, information and belief

Executed on: September 6, 2002

s/Sanford G. Rosenthal  
SANFORD G. ROSENTHAL, ESQUIRE

**IN THE UNITED STATES DISTRICT COURT  
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**DECLARATION OF FAILURE TO PLEAD OR OTHERWISE DEFEND  
IN SUPPORT OF APPLICATION FOR ENTRY OF JUDGMENT**

SANFORD G. ROENTHAL, Esquire, declares:

1. He is the authorized agent of the Plaintiffs and the attorney of record in this matter, and has personal knowledge of the facts set forth in this Declaration.

2. Examination of the Court files and records in this case shows that service of the within Complaint was made upon the Defendant on May 22, 2002.

3. More than twenty (20) days have elapsed since the date on which the service was made with a Summons and a copy of a Complaint, excluding the date thereof.

4. Defendant has failed to answer or otherwise respond or defend as to Plaintiffs' Complaint, or serve a copy of any answer or other defense which it might have had.

5. Defendant is not an infant or an incompetent person.

6. Inasmuch as Defendant is a corporation, it is not in the military service.

7. This Declaration is executed in accordance with Rules 55(a) and 55(b) of the Federal Rules of Civil Procedure for the purpose of enabling the Plaintiffs to obtain an entry of default judgment against Defendant, for its failure to answer or otherwise defend as to the

Plaintiffs' Complaint.

I declare under penalty of perjury in accordance with 28 U.S.C. §1746 that the foregoing is true and correct to the best of my knowledge, information and belief

Executed on: September 6, 2002

s/Sanford G. Rosenthal  
SANFORD G. ROSENTHAL, ESQUIRE

**CERTIFICATE OF SERVICE**

I, SANFORD G. ROSENTHAL, ESQUIRE, state, under penalty of perjury, that the foregoing Motion for Judgment by Default by the Court pursuant to Federal Rule of Civil Procedure 55(b)(2) against Defendant United Mechanical Contractors, Inc. was served by mailing same first class mail, postage prepaid on the date listed below:

United Mechanical Contractors, Inc.  
2250 Hickory Rd., Ste.100  
Plymouth Meeting, PA 19463

Alex J. Murland, Esquire  
One Jenkintown Station  
115 West Avenue, Ste. 206  
Jenkintown, Pa 19046

The foregoing Motion has been filed with the Court electronically and is available for viewing and downloading from the ECF system.

s/Sanford G. Rosenthal  
SANFORD G. ROSENTHAL, ESQUIRE

Date: September 6, 2002



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UNITED MECHANICAL CONTRACTORS, INC.	:	
Defendant	:	NO. 02-2777

**ORDER AND JUDGMENT BY DEFAULT AGAINST  
DEFENDANT UNITED MECHANICAL CONTRACTORS, INC.**

Upon consideration of the Complaint and Motion for Entry of Judgment by Default of the Plaintiffs, Steamfitters Local Union No. 420 Welfare Fund, Steamfitters Local Union No. 420 Pension Fund, Steamfitters Local Union No. 420 Supplemental Retirement Fund, Steamfitters Local Union No. 420 Vacation Fund, Steamfitters Local Union No. 420 Apprenticeship Training Fund, Scholarship Fund of Steamfitters Local Union No. 420, Local Union No. 420 Piping Industry Political and Education Fund, Mechanical Contractors Association of Eastern Pennsylvania, Inc. Industry Fund (respectively "Welfare Fund," "Pension Fund," "Annuity Fund," "Vacation Fund," "Apprenticeship Fund," "Scholarship Fund," "PIPE Fund," and "Industry Fund" and jointly "Funds"), Local Union No. 420 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada ("Union"), Joseph Rafferty and Jack H. James ("Rafferty," "James" and together with Funds and Union, "Plaintiffs"), it appears to the Court that Defendant, United Mechanical Contractors, Inc. ("Company" or "Defendant"), was served with process on May 22, 2002 and has inexcusably, knowingly and willfully failed to appear, plead or otherwise defend, and default against the Company having been entered, it is **ORDERED**:

1. Judgment is entered against Company and in favor of the Plaintiffs for \_\_\_\_\_ which includes all unpaid contributions through May 2002, interest through September 9, 2002, liquidated damages, and attorneys' fees and costs through September 9, 2002 under and pursuant to the terms of the Company's collective bargaining agreement, the September 7, 1999 settlement, and the Employee Retirement Income Security Act ("ERISA"). See, 29 U.S.C. §§185(a) and 1132(g)(2)(A)-(B):

2. Company, its owners, officers, agents, servant, attorneys, and all persons acting on its behalf or in conjunction with it shall be and hereby are restrained and enjoined from refusing to file complete, proper and timely remittance reports with accompanying contributions for all periods on or after August 1, 2002 for which Company is obligated to do so under its collective bargaining agreement(s).

3. Within five (5) days of the entry of the Order, Company shall submit all outstanding remittance reports for June 2002 and July 2002 together with all required contributions.

4. Plaintiffs are awarded reimbursement of all additional attorneys' fees and costs they incur in the collection and enforcement of this judgment. If further action by Plaintiffs to enforce or collect this judgment is required, Plaintiffs may apply to this Court or to the Court in which enforcement is sought for further reasonable attorneys' fees and costs for periods on and after September 9, 2002.

5. This Order and Judgment is enforceable, without duplication, by one or more of the Plaintiffs, jointly and severally, or their agents.

BY THE COURT

Date: \_\_\_\_\_  
Philadelphia, Pennsylvania

\_\_\_\_\_  
THOMAS N. O'NEILL, JR. J.